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September 22, 2008

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VIA ELECTRONIC DELIVERY

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Application of Viable, Inc. for Certification as an Eligible Provider of
Telecommunications Relay Services
CG Docket No. 03-123**

Dear Ms. Dortch:

On behalf of Viable, Inc. attached is an application to become an eligible provider of Video Relay Service, Internet Protocol Relay Service, and Internet Protocol Captioned Telephone Service. This application for certification is being submitted to the Federal Communications Commission in accordance with the Commission's orders in this docket issued on December 12, 2005 and January 11, 2007. *See Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Order on Reconsideration, 20 FCC Rcd 20577 (2005); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Internet-based Captioned Telephone Service*, Declaratory Ruling, 22 FCC Rcd 379 (2007).

Viable respectfully requests expedited processing of its application. The Commission has announced plans to transition to 10-digit dialing for VRS. Certification will enable Viable to participate fully in the planning and implementation process for 10-digit dialing, and to lend its expertise and credibility to an important effort advancing the availability of functionally equivalent telecommunications services to deaf and hard of hearing consumers. Moreover, granting Viable's application will foster greater consumer choice, support the development of innovative products and services, and increase accessibility options in furtherance of the public interest.



Marlene Dortch
September 22, 2008
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Please do not hesitate to contact me with any questions regarding this application.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scott Delacourt".

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Counsel for Viable, Inc.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for)	
Individuals with Disabilities)	
)	
VRS, IP Relay, and IP CTS Certification)	
)	

**APPLICATION OF VIABLE, INC. FOR CERTIFICATION AS AN ELIGIBLE
PROVIDER OF TELECOMMUNICATIONS RELAY SERVICES**

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September 22, 2008

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**APPLICATION OF VIABLE, INC. FOR CERTIFICATION AS AN ELIGIBLE
PROVIDER OF TELECOMMUNICATIONS RELAY SERVICES**

Viable, Inc. (“Viable”), submits this application pursuant to 47 C.F.R. §64.604 which sets forth the Federal Communications Commission’s (the “Commission” or the “FCC”) mandatory minimum standards for providing TRS and 47 C.F.R. §64.605 which sets forth the rules for certification as an eligible recipient of reimbursement from the Telecommunications Relay Services (“TRS”) Fund. As demonstrated further herein, Viable meets the certification requirements of §64.605(b) and complies with all of the non-waived mandatory minimum standards as set forth in 47 C.F.R. §64.604 for Video Relay Service (“VRS”), Internet Protocol Relay Service (“IP relay”), and Internet Protocol Captioned Telephone Relay Service (“IP CTS”).

Consistent with the Commission’s policy of encouraging the entry of new TRS providers, Viable’s application for certification as a TRS provider is in the public interest and should be granted. Certification will allow Viable to expand its services as an end-to-end VRS, IP relay, and IP CTS provider. Certification will foster greater consumer choice, will support the development of innovative products and services and will increase the accessibility options for deaf and hard of hearing consumers.

I. INTRODUCTION

Viable is a Delaware corporation with its headquarters located at 5320 Marinelli Road in Rockville, MD 20852. Established in 2005, Viable is owned by John T.C. Yeh, a well known advocate for access, equal employment and fair opportunity for deaf citizens. Through its technology branch, Viable Communications, Inc., Viable's work has focused on developing technological solutions that enable barrier-free communication for deaf and hard of hearing people. Because of Viable's unique in-house engineering capabilities, Viable was initially involved in developing platform technologies for call centers. Viable strives for excellence in the quality of services provided. Viable's innovations in technology will lead the way into the next generation of SIP-based VRS, and IP Relay technologies while maintaining interoperability with legacy systems.

After cultivating a stable and secure relationship with a certified TRS provider, Viable began staffing and operating call centers as a subcontractor. To date, Viable has provided over one million VRS minutes. Viable has greatly benefited from the tutelage of its certified provider partner and with this industry experience Viable enjoys the capability, expertise and technological ability to be certified as a TRS provider in its own right.

A. Overview of Technical Infrastructure

Because Viable has been providing VRS on a contractual basis for several years, it has been able to develop the infrastructure necessary to provide high quality VRS services and to comply with the mandatory minimum standards requirements set forth in 47 C.F.R. §64.604. From its inception, Viable has been committed to building an end-to-end infrastructure designed to give deaf and hard of hearing people an effective telecommunication tool on a twenty-four hour per day, seven day per week basis. By integrating and customizing existing technologies, Viable has built the infrastructure needed to manage and operate a quality video relay service.

Through the use of a redundant fail-safe system, Viable's extensive network ensures a smooth, uninterrupted consumer experience. Coupled with an accurate and reliable data capture system, Viable's infrastructure allows for convenience in analyzing and optimizing Viable's services.

B. Video Relay Stations

Each VRS station is ergonomically designed to provide a comfortable workspace for video interpreters to work without external intrusions. Each booth is equipped with a standard inventory including a desktop computer with a Windows operating system, dual 19-inch monitors, and webcam designed to provide the interpreter with familiar and ergonomic equipment. Operator headsets have been chosen for maximum comfort and are individually distributed to interpreters for their personal use. Each workstation is connected to a backup power generator to ensure redundancy in the event of a power failure while operating.

Viable's IP relay centers will employ a similar workstation set up, although the technical requirements are slightly less as no video equipment or software will be required for IP relay and for IP CTS workstations.

C. Network Speeds

The need for high quality Internet connections cannot be understated. Highest quality network speeds ensure clarity of streaming video and provide a functionally equivalent experience for the deaf user. Viable understands this need and maintains strict minimum bandwidth speeds and prohibits booth capacity to exceed bandwidth capacity. Depending on the location, Viable call centers employ, at a minimum, DS-1 connections. Some Viable call centers use a burstable connection containing the necessary video and audio data in environments with requirements far below available bandwidth.

Although IP relay requires considerably less bandwidth than VRS, Viable IP relay and IP CTS call centers will employ the same rigid expectation of having more bandwidth available than the minimum needed.

D. Viable Communications Server

Viable developed the Viable Communications Server (“VCS”) specifically to address the needs of TRS call centers. All Viable call centers operate using VCS, which has a built-in Automated Call Distribution (ACD) system and enhanced communications servers. VCS automatically routes calls to the most relevant and available Communication Assistant (CA), maximizes the CA’s efficiency with comprehensive statistical reporting and data tracking, and is interoperable with all VRS providers and across multiple software and hardware platforms.

E. Call Routing

Viable data traffic is distributed between geographically diverse data centers, over a secure network, which allows for maximum packet transfer efficiency. The data centers house the VCS, Viable’s server-based solution. Geographic disbursement allows for the call center to route traffic to the closest server. Locating data centers at a variety of locations has distinct advantages: it ensures twenty-four hour, seven day per week operational capacity in climate and power controlled environments and down time is minimized to the extent technically possible.

F. Call Reporting

VCS was designed to adhere to the Commission’s reporting requirements in collecting all necessary information required for reimbursement from the TRS Fund. Viable has successfully implemented its VCS Call Reporting methods and has used it successfully for several years to report usage data to its partner for reimbursement from the TRS Fund. VCS enables complete statistical reporting including booth occupancy, cumulative performance time, caller queue, and

call routing. VCS enables Viable to provide exceptional VRS and to efficiently monitor and report usage to the Commission.

G. Video Hold Queue

Viable is the first VRS provider to adopt an innovative visual approach to convey information to deaf users as they wait for an available interpreter. Viable employs a video hold screen with a message in American Sign Language (ASL) instead of using the traditional “floating text” message. This ASL communiqué is an example of Viable’s commitment to visual communications. The very premise of VRS is that the ASL user is able to communicate in their native language rather than remaining dependent on text-based communications. The ASL hold screen message is a testament to Viable’s commitment to provide deaf callers with a truly functionally equivalent experience.

H. Call Center Expansion

Viable recognizes the challenges of opening and expanding new call centers while remaining both cost effective and sensitive to the interpreting needs of the community. The Viable “Call Center in a Box™” solution allows flexibility in choosing call center locations while minimizing any negative impact on the local community. The “Call Center in a Box™” is a patentable solution which allows for an immediate plug-and-play experience to establishing new call centers. The benefits of bringing a call center online in hours using virtual-based technologies and remote assistance are obvious. By far, the greatest advantage is mitigating the impact that large call centers have on small interpreting communities, which threatens to drain the available network of freelance interpreters.

Viable does not anticipate the same community impact for its IP relay or IP CTS services as there is for VRS. Although all of Viable’s IP relay CAs will receive intensive training, they do not require the years of highly specialized training that Video Interpreters (“VI”) require.

Further, IP relay CAs are generally easier to recruit without influencing local interpreting workforce. The “Call Center in a Box™” platform will be customized for IP relay and IP CTS call centers. Hence, IP Relay and IP CTS call centers will enjoy the same ease of set up that the VRS call centers enjoy.

II. VIABLE SATISFIES THE SECTION 65.605(A)(2) REQUIREMENTS FOR FCC CERTIFICATION AS AN ELIGIBLE PROVIDER OF VRS, IP RELAY, AND IP CTS.

The Commission has required that “any entity desiring to provide VRS or IP Relay services, independent from any certified state TRS program or any TRS provider otherwise eligible for compensation from the Interstate TRS Fund, to receive compensation from the Interstate TRS Fund, shall submit documentation to the Commission . . . in narrative form.”¹

Accordingly, the entity must demonstrate:

- (i) A description of the forms of TRS to be provided (i.e., VRS and/or IP Relay);
- (ii) A description of how the provider will meet all non-waived mandatory minimum standards applicable to each form of TRS offered;
- (iii) A description of the provider’s procedures for ensuring compliance with all applicable TRS rules;
- (iv) A description of the provider’s complaint procedures;
- (v) A narrative describing any areas in which the provider’s service will differ from the applicable mandatory minimum standards;
- (vi) A narrative establishing that services that differ from the mandatory minimum standards do not violate applicable mandatory minimum standards;
- (vii) Demonstration of status as a common carrier; and
- (viii) A statement that the provider will file annual compliance reports demonstrating continued compliance with these rules.²

¹ 47 C.F.R. §64.605(a)(2).

² 47 C.F.R. §64.605(a)(2)(i-viii).

As will be shown in the following sections, Viable presently meets or exceeds all operational, technical, and functional TRS standards set forth in §64.605. Viable is committed to ensuring that policies, procedures and remedies are implemented to remain compliant with all applicable Commission rules. Viable upholds the highest standards and commitment to serving the deaf, hard of hearing, and speech disabled communities. Viable acts not only as a vendor, but Viable's employees represent contributing members of the deaf community. Viable believes that quality of deaf life is contingent on the quality of communication. Viable will leverage the extensive experience and knowledge gained as a VRS provider as it implements IP relay, IP CTS and any future mandated services.

B. Description of the Forms of TRS to Be Provided

The Commission requires that an applicant seeking to be certified as a TRS provider submit a narrative description of the forms of TRS which will be provided. Viable proposes to provide ViableVRS, IP relay and IP CTS services. A description of each will follow.

1. ViableVRS

Through ViableVRS, deaf and hard of hearing people are afforded a means to place telephone calls in a manner functionally equivalent to the telephone service provided to individuals who can hear. ViableVRS operates twenty-four hours per day, seven days per week, three hundred sixty-five days per year. The service is available to any deaf or hard of hearing caller with a high speed internet connection, and either a video phone hardware device or a personal computer with webcam. Connecting to ViableVRS is a simple matter of dialing ViableVRS.TV. The deaf or hard of hearing individual connects to a Viable Video Interpreter ("VI") who will, in turn, connect the deaf user to a hearing person on the phone. The video interpreter will then interpret between the deaf and hearing users using ASL and English. Viable will also provide ASL to spoken Spanish interpretation.

2. Viable IP Relay and IP CTS

Viable will also broaden its services to deaf, hard of hearing, and speech impaired individuals by expanding into the IP relay and the IP CTS fields. By utilizing technologies that Viable currently has developed and applied to the VRS industry, Viable will be able to meet all non-waived mandatory minimum standards.

Viable will also further develop its training programs to reflect the CA's need for awareness of the deaf and hard of hearing communities. The CAs will undergo thorough screening processes, and Viable will provide initial and ongoing training to keep its CAs abreast of trends in this evolving field.

C. Compliance with Non-Waived Mandatory Minimum Standards

The Commission requires that an applicant seeking to be certified as a TRS provider submit a narrative description of how the provider will meet all non-waived mandatory minimum standards applicable to each form of TRS offered. A description of how Viable will comply with the non-waived mandatory minimum standards is set forth below.

1. Video Interpreters and Communication Assistants

With respect to the qualifications of Video Interpreters (VIs), the Commission requires that TRS providers require that all VIs are sufficiently trained to effectively meet the specialized communication needs of individuals with hearing and speech disabilities; that they have competent language skills, are able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary and are familiar with deaf culture, among other things.³

Viable recognizes that functional equivalence in telecommunications depends not only on technology, but also on the availability of a sufficient number of highly skilled ASL interpreters.

³ 47 C.F.R. §64.604(a)(1)(ii-iv).

The VI is often the first and potentially the only interface that the caller has with the company. Viable's corporate culture allows it to effectively recruit and manage qualified interpreters. Viable seeks out VIs who are native to the deaf community. Viable has found that this connection with the deaf community provides the caller with a familiar and comfortable experience. The shortage of qualified interpreters is well documented and is placing a strain both on the industry and on the educational system charged with replenishing the supply of interpreters. Viable's model assumes native language competency and its training programs focus on refining interpreting skills. Viable has found that it is more effective and efficient to teach native language users the interpreting process than it is to teach language skills to non-native interpreters.

However, non-native interpreters are also actively recruited and have a special relationship with Viable where they benefit from their interactions with the large number of deaf professional, technical and managerial staff employed at headquarters and elsewhere in the Viable community. Both native and non-native Viable VIs understand the struggle that the deaf community has faced over the years and are passionate in their commitment to provide access to communication that is functionally equivalent and thereby empowering.

Viable offers competitive salaries for full-time and part-time interpreters. Further, Viable's attractive benefit package assists in recruiting and retaining qualified interpreters. Viable offers a comprehensive benefits package, including full health/vision/dental/life insurance coverage, a competitive retirement savings plan, and paid time off, among other benefits.

Interpreter applicants at Viable undergo a rigorous multi-part application and screening procedure prior to receiving an offer. The screening process is designed to identify ASL and English fluency, knowledge and mastery of interpreter ethical practices and cultural competence. The initial interview is designed to gauge the interpreter's level of professionalism, interpreting

process knowledge, and fluency in ASL and English. The second interview requires the applicant to demonstrate their interpreting skill by interpreting a variety of tasks. This overall sample of the applicant's work is designed to determine whether the interpreter is able to interpret effectively, accurately and impartially, both receptively and expressively in the VRS setting.

Upon being hired, interpreters undergo two-week training period with ongoing support from trainers and senior VIs. The initial day of orientation includes an overview of Viable's policies, procedures and Commission regulations. The remaining portion of the orientation focuses on call center procedures and video interpreting techniques: VIs become familiar with Viable's policies and procedures, observe seasoned video interpreters process calls and interpret mock calls incorporating their training and experience. Trainers assess interpreted performance on the mock calls and identify strengths and weaknesses to determine a quality assurance plan for the interpreter. A trainer will then remain with the interpreter during their first week of live calls to provide additional support and to ensure that the quality of call processing meets Viable's expectations. Additional training beyond the initial two-week period is provided as indicated by Viable's Quality Assurance program staff.

Continuing education for interpreters is crucial in demonstrating Viable's commitment to consumers and the interpreting field, and is an integral part in recruiting and retaining highly qualified interpreters. Professional development opportunities are offered through in-house seminars and sponsorships to outside training opportunities. Viable strongly encourages national testing of qualified, non-certified interpreters, and, as an incentive, offers reimbursement of test expenses to interpreters who pass RID/NAD's National Interpreter Certification exam.

In addition to certification and training programs, Viable also encourages its VIs to participate in community-based interpreting. The current VRS model removes interpreters from

the community and places them into VRS call centers, diminishing the available pool of interpreters for freelance work. By sharing Viable's VIs with the community, the impact of the VRS service has on the ability of the deaf community to obtain in-person interpreters for important appointments is attenuated. Further, community work provides variety to interpreters who experience higher than normal rates of burn-out when confined solely to a call center environment. Viable will also ensure that the Communication Assistant's (CAs) hired to work with the IP Relay and IP CTS will also be sufficiently trained to effectively meet the needs of the individuals they serve. CAs shall be competent in typing, grammar, spelling, interpretation of typewritten ASL, and familiar with hearing and speech disability cultures, languages and etiquette, among other competencies.⁴

2. Speed of Answer

The Commission has set forth mandatory minimum standards that require VRS providers to answer 80% of all calls within 120 seconds, measured on a monthly basis and requires that VRS providers ensure sufficient staff to meet these requirements given the call center's projected call volumes to ensure that the probability of a busy response due to VI or CA unavailability shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.⁵

Viable call centers are staffed through the use of scheduling algorithms, devised based on projected call volume for any given time period. By ensuring appropriate staffing levels, Viable is capable of exceeding the Commission's current speed of answer standards. Viable already meets or exceeds the mandatory minimum average speed of answer. In Viable's experience

⁴ 47 C.F.R. §64.604(a)(1)(ii-iii).

⁵ 47 C.F.R. §64.604(b)(2)(i-iii).

providing VRS services, more than 80% of the calls are answered in 90 seconds or less. Viable IP relay and IP CTS will meet or exceed the speed of answer requirement of answering 85% of calls within 10 seconds.

3. Confidentiality

The Commission's mandatory minimum standards prohibit CAs from disclosing the content of any relayed conversation with limited exceptions for STS CAs and except as authorized by section 705 of the Communications Act, 47 U.S.C. §605.⁶ Viable understands, appreciates and is committed to the need for confidentiality of relayed conversations. All Viable call centers are access-controlled. Non-essential call center personnel are denied entry during operational hours. VI workstations contain noise-absorbing pads and can be individually closed off during use to ensure privacy. VIs are strictly prohibited from discussing matters regarding calls that have been processed, and are trained on how to discuss concerns or procedural issues without disclosure of sensitive or identifying information. No records of information pertaining to calls processed are retained. The confidentiality policy is strictly enforced, and violation of this policy is grounds for immediate dismissal.

4. Types and Length of Calls

The Commission's mandatory minimum standards impose a number of requirements on providers of TRS and Viable's policies and procedures comply with each of the requirements.⁷ Viable's policies prohibit VIs or CAs from refusing single or sequential calls or from limiting the length of calls. Whenever possible, Viable VIs and CAs will remain with the caller for the duration of the call. At the very least, VIs and CAs are required to remain on call for a minimum of 10 minutes.

⁶ 47 C.F.R. §64.604(a)(2).

⁷ 47 C.F.R. §64.604(3)(i-vi).

Viable's policies require VIs and CAs to handle all types of calls that have not been waived by the Commission without imposing any limitation on the content of the calls.

Specifically, Viable provides and will continue to provide access to the following types of TRS calls: (1) text-to-voice and voice-to-text; (2) VCO, two-line VCO, VCO-to-TTY, and VCO-to-VCO; (3) HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO.

Viable handles emergency 9-1-1 calls pursuant to the FCC Interim Order on Emergency Calling in partnership, through contractual relationships, with E911 provider partners who are able to route emergency calls to the nearest Public Safety Access Point ("PSAP"), designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location.⁸ Viable has implemented a system to prioritize emergency calls so that they are moved to the beginning of the queue. At the start of each emergency call, Viable's VIs have been trained to request the caller's name and location information. Thereafter, the VI delivers, at the outset of the outbound leg of the call, at a minimum, the name of the relay user and the location of the emergency, as well as the name of the relay provider, the VI's callback number and the VI's identification number. Viable has also taken steps to ensure that its users are aware of these emergency call handling procedures.

Viable is committed to complying with the new ten-digit numbering requirements within the deadlines set forth in the Commission's June 24, 2008 Report and Order.⁹ Viable is gearing up to provide ten-digit geographically based NANP numbers through its numbering partner to

⁸ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, E911 Requirements for IP-Enabled Service Providers*, Report and Order, CG Docket No. 03-123; WC Docket No. 05-196, FCC 08-78 (2008).

⁹ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, E911 Requirements for IP-Enabled Service Providers*, Report and Order, CG Docket No. 03-123; WC Docket No. 05-196, FCC 08-151 (2008).

deaf registered users. While the Interim Call Handling procedures remain in place, Viable also is in compliance with the revised procedures set forth in the June 24, 2008 Order requiring that “in the event one or both legs of the call are disconnected . . . Internet-based TRS providers ‘must immediately re-establish contact with the Internet-based TRS user and/or the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority and resume handling the call.’”¹⁰ Viable has been an active part of the regulatory process in providing public comment regarding the technical and practical capabilities to provide access to emergency services for deaf and hard of hearing callers.

5. Gender Accommodations

Viable will accommodate a user’s gender preference in VIs and CAs whenever possible.¹¹ In the event of a request for a preferred gender, the interpreter connected on the call will make every effort to find an available interpreter of the requested gender. If an interpreter of the requested gender is available, the VI will be replaced by the interpreter of the preferred gender. If no interpreter of the requested gender is available, then the user will have the option of continuing the call until such an interpreter is available, or conducting the call at a later time. If a change of interpreters during the call is necessary, every effort to maintain the preferred gender will be made.

6. ASCII and Baudot

The technical standards requirement of ASCII and Baudot is waived for VRS, IP Relay and IP CTS.¹²

¹⁰ See *id.*, ¶ 79, n. 192.

¹¹ 47 C.F.R. §64.604(a)(1)(vi).

¹² See *Telecommunications Services for Individuals with Hearing and Speech Disabilities, Recommended TRS Cost Recovery Guidelines, Request by Hamilton Telephone Company for Clarification and Temporary Waivers*, Memorandum Opinion and Order and Notice of Proposed

7. Equal Access to Interexchange Carriers

The requirement of equal access to interexchange carriers has been waived for VRS, IP relay, and IP CTS.¹³ In lieu of providing access to interexchange carriers, Viable will handle long distance calls at no charge to its users.¹⁴

8. Voicemail and Interactive Menus

Under the mandatory minimum standards, CAs handling text-based TRS calls are required to use a hot key that sends text to the consumer to alert callers when they have dialed a number answered by a recorded message and interactive menu.¹⁵ Viable's IP relay and IP CTS CA's will use a hot key to inform customers of the presence of a recorded message and interactive menu.

Because VRS takes place in real time, Viable VIs are able to immediately inform callers as to the presence of recorded messages and interactive menus as soon as these calls are connected. The VIs are able to quickly relay the information conveyed by the recordings and assist callers in either routing their calls to their preferred locations or retrieving information from these interactive voice response systems. Upon a customer's request, Viable VIs can leave voice messages on voice mail systems and retrieve voice messages for callers.

Rulemaking, 16 FCC Rcd 22948, n. 53 (2001); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, FCC 06-182, ¶ 30 (2007) (“*IP CTS Order*”).

¹³ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, DA 07-5098, ¶¶ 16-17 (2007) (“*2007 VRS and IP Relay Waiver Order*”); *IP CTS Order*, ¶ 30.

¹⁴ See *2007 VRS and IP Relay Waiver Order*, ¶ 16 (extending the waiver of the “equal access to interexchange carriers” mandatory minimum standard and reminding providers that the waiver is contingent on the provision of free long distance service).

¹⁵ 47 C.F.R. §64.604(a)(3)(vii).

Additionally, Viable provides video mail service for calls made by hearing people to its VRS customers. Viable also will offer answering machine services for its IP relay and IP CTS customers.

9. Speed Dialing

Viable offers its VRS customers speed dialing capabilities as is required by the Commission's regulations.¹⁶ This feature enables the user to give Viable VIs a short-hand name or number for the user's most frequently called telephone numbers. At this time, the speed dialing requirement is waived for IP relay and IP CTS,¹⁷ but Viable plans to implement speed dialing features for these services as soon as it is technically feasible.

10. Three-Way Calling

Viable will offer three-way calling capabilities for VRS and IP relay customers in accordance with the *Three-way Calling Clarification Order*.¹⁸ Although the Commission waived this requirement for IP CTS,¹⁹ Viable plans to implement three-way calling capabilities for IP CTS as soon as it is technically feasible.

11. Operations/Uninterruptible Power

The Commission's regulations require that TRS providers shall have redundancy features functionally equivalent to the equipment in normal central offices including uninterruptible power for emergency use.²⁰ Viable will implement redundancy features that are functionally

¹⁶ 47 C.F.R. §64.604(a)(3)(vi).

¹⁷ See *2007 VRS and IP Relay Waiver Order*, ¶ 21; *IP CTS Order*, ¶ 30.

¹⁸ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 20 FCC Rcd 3689 (2005).

¹⁹ *IP CTS Order*, ¶ 30.

²⁰ 47 C.F.R. §64.604(b)(4)(ii).

equivalent to the capabilities and equipment used in normal central offices. Viable will possess an uninterruptible power supply for use in times of emergency. Also, an adequate number of workstations and facilities will be used to eliminate busy responses by the service for Viable's customers.

12. Public Access to Information

The Commission's regulations require that providers "shall assure that callers in their service areas are aware of the availability and use of all forms of TRS. . . . [and that] [e]fforts to educate the public about TRS should extend to all segments of the public, including individuals who are hard of hearing, speech disabled, and senior citizens as well as members of the general population."²¹ Viable frequently conducts one-on-one and group training sessions, exhibits at community events, presents at educational institutions and community centers, and provides workshops to community-based organizations. Viable will continue to undertake outreach activities and programs to ensure that the public is aware of Viable's VRS, IP relay, and IP CTS services. Viable's efforts to educate the public about Viable's services extend to all segments of society, as required by the Commission, including individuals who are hard of hearing, speech disabled, and senior citizens, as well as the general public. In addition, Viable will continue to update its informative website, which provides potential and current users with valuable information regarding Viable's services.

13. Rates

The Commission's rules require that consumers of Viable's VRS, IP relay, and IP CTS services will pay rates no greater than those paid for functionally equivalent voice calls.²²

²¹ 47 C.F.R. §64.604(c)(3).

²² 47 C.F.R. §64.604(c)(4).

ViableVRS is and will continue to be free to end users. Viable's IP relay and IP CTS services also will be free to end users.

14. Jurisdictional Separation of Costs

Currently, VRS, IP relay, and IP CTS providers receive compensation from the Interstate TRS Fund. In the future, if the Commission determines that any of these services are capable of jurisdictional separation, and therefore limits recovery from the interstate TRS Fund to the interstate component of such calls, Viable will comply with the Commission's directives.²³

15. Blocking Access to Competitors

Viable's services will be interoperable with the services of other providers. Also, Viable does not and will not distribute relay equipment that prevents access to other providers.

16. Notification of Substantive Changes

In the event there are any substantive changes impacting VRS, IP Relay or IP CTS services, Viable will notify the Commission within 60 days of when such changes occur. Viable will certify that it continues to meet federal minimum standards after implementing any substantive changes.²⁴

17. Use of End-User Information

Although Commission rules governing the treatment of TRS customer information are primarily directed to the transfer of TRS customer profile data from one TRS vendor to another when a state relay program changes vendors, Viable wants to assure the Commission that any TRS customer information it acquires will similarly be used only for the purpose of connecting

²³ 47 C.F.R. §64.604(c)(5).

²⁴ 47 C.F.R. §64.605(f)(2).

TRS users with called parties, and shall not be sold, distributed, shared or revealed in any other way, unless compelled to do so by lawful order.²⁵

D. Description of Viable's Procedures for Ensuring Compliance with the TRS Rules

The VRS and IP Relay Provider and TRS program certification regulations require that an applicant for certification as a TRS provider submit documentation in narrative form regarding a description of the provider's procedures for ensuring compliance with all applicable TRS rules.²⁶ Viable will monitor and train all VIs, CAs, staff, and technicians as needed to ensure compliance with all TRS/VRS rules. Viable's services will perform above the non-waived mandatory minimum standards as set forth in 47 C.F.R. § 64.604.

E. Contact Person and Description of Viable's Complaint Procedures

Section 64.605(a)(2)(iv) of the Commission's regulations for provider certification require that the provider maintain contact information for complaints and implement procedures for processing those complaints. In addition, the mandatory minimum standards provide guidelines and requirements for periodic complaint reporting to the Commission.²⁷ Viable has processes and procedures in place to comply with these requirements as will be further explained below.

1. Contact Person

The contact person for consumer information and complaints is Joseph Yeh, Vice President of Business Development, 5320 Marinelli Road, Rockville, MD 20852, 240-421-3544, email Joseph.Yeh@viable.net.

²⁵ 47 C.F.R. §64.604(c)(7).

²⁶ 47 C.F.R. §64.605(a)(2)(iii).

²⁷ 47 C.F.R. §64.604(c)(1).

2. Complaint Procedures

The mandatory minimum standards require that providers maintain a log of consumers' complaints and must retain the log until the next application for certification is granted.²⁸ Customers are encouraged to report their experiences, whether positive or negative, to Viable. As required by the regulations, Viable maintains a log of all consumer complaints ranging from technical problems to VI and CA issues. All logs include the date the complaint was filed, nature of the complaint, and an explanation of resolution. Summaries of the complaint log are utilized to guide our strategic plan and will be submitted to the Commission annually as required.

Any person may register a complaint or report a support issue with Viable. Several methods are available for the user to communicate with Viable. Internet users may visit Viable's website (www.viable.net), which contains a support section. On the website, the customer may fill out a form reporting any experience they may have with Viable's services and products. Users with access to electronic mail may e-mail help@viable.net to discuss their complaint. The support form and e-mail will automatically generate a "Trouble Ticket" using Viable's internal ticket system. Tickets are screened by Viable's Customer Support Team, who may contact the customer to learn more about the nature of the complaint, or to resolve the problem. The Support Team will assign open tickets to the appropriate supervisors to review, and all actions or comments taken on the ticket are documented.

Users may also contact a live representative to discuss their concern. Users may call Viable directly at (240) 292-0222 using a standard telephone, or may input help.ViableVRS.TV on the screen using a standard H.323 or SIP videophone to contact a Viable representative. The representative will speak with the customer, will document the concern using a ticketing system

²⁸ 47 C.F.R. §64.604(c)(1).

and will ensure resolution. Customers who call ViableVRS.TV connect to a VI and then request to speak with a supervisor if they prefer to speak directly with call center management regarding an issue or concern. In the event of such a request, the supervisor on duty will take the user's call and attempt to resolve the issue. All complaints are documented.

If the complaint relates to a VI's or CA's performance or compliance with policy, the appropriate supervisor will review the complaint. The issue will be discussed with the VI or CA and methods for resolution will be discussed and implemented.

F. Description of Any Areas in Which Viable's Services Will Differ from the Mandatory Minimum Standards

Section 64.605(a)(2)(v) seeks a narrative describing any areas in which the provider's service will differ from the applicable mandatory minimum standards. At this time, Viable is not aware of any services it provides or will provide that do not meet or exceed the applicable non-waived mandatory minimum standards.

G. Services That Differ from but Will Not Violate Applicable Mandatory Minimum Standards

Not applicable.

H. Demonstration of Status as a Common Carrier

Viable conforms to the Communications Act's definition of "common carrier" as construed by the U.S. Court of Appeals for the D.C. Circuit ("D.C. Circuit"). Section 153 of the Act defines a common carrier as "any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy ..."²⁹ The D.C. Circuit has explained that entities fit into this definition if they satisfy two

²⁹ 47 U.S.C. § 153(4)(10). *See also* 47 U.S.C. § 225(a)(1) (defining common carrier as "any common carrier engaged in interstate communication by wire or radio as defined in Section 3 and any common carrier engaged in intrastate communication by wire or radio, notwithstanding Sections 2(b) and 221(b)").

elements: First, a common carrier “hold[s] himself out to serve indifferently all potential users.”³⁰ Second, a common carrier provides a service that allows “customers [to] ‘transmit intelligence of their own design and choosing’.”³¹

Here, Viable’s services satisfy both elements. In regards to the first element, Viable will not discriminate in its provision of VRS, IP relay, and IP CTS services.³² Any user with a sufficient Internet connection will be able to contact Viable and take advantage of Viable’s state-of-the-art communications services. Viable also satisfies the second element; Viable will not interfere in any way with the content of a user’s conversation.

I. Statement on Annual Compliance Reports

Viable will file annual compliance reports demonstrating continued compliance with the rules for VRS, IP relay, and IP CTS one year from the date of certification. Viable also will file reports for its VRS, IP relay, and IP CTS on April 16th of each year that will address the feasibility of meeting the waived TRS requirements for each service.

J. NECA Notification

After receiving the certification requested herein, Viable will notify the National Exchange Carriers Administration of its intent to provide these services and to receive

³⁰ *Nat’l Ass. Of Reg. Util. Comm’rs v. FCC*, 533 F.2d 601 (D.C. Cir. 1976) (quoting *National Ass’n of Reg. Util. Comm’rs v. FCC*, 525 F.2d 630, 641, n. 58 (D.C. Cir. 1976).

³¹ *Id.*; *National Ass’n of Reg. Util. Comm’rs v. FCC*, 525 F.2d at 641.

³² The fact that a small portion of the overall population likely will take advantage of Viable’s services does not alter the analysis of whether Viable is a common carrier. As the D.C. Circuit explains: “[A] specialized carrier whose service is of possible use to only a fraction of the population may nonetheless be a common carrier if he holds himself out to serve indifferently all potential users.” *Nat’l Ass. Of Reg. Util. Comm’rs v. FCC*, 533 F.2d 601; *State of Iowa and Iowa Telecommunications and Technology Commission v. FCC*, FCC 99-1149 (D.C. Cir. 2000).

compensation from the Interstate TRS Fund thirty days prior to submitting reports of interstate minutes.

III. CONCLUSION

For all of the foregoing reasons, Viable, Inc. respectfully requests that the Commission grant this application for certification to the TRS Fund.

Respectfully submitted,

/s/ Carla M. Mathers

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